

DELEGATE SCANLAN: Yes, Mr. Chairman. I have no desire to prolong this extended debate at this late hour, but it seems to me that Chairman Mudd made a significant admission when he conceded that in a State where the plan of the nominating commission and the noncompetitive election has reached its highest apex of practice, Missouri, handles this matter of the lawyer poll by statute. I think that is the way that this should be handled if at all, and perhaps Delegate Hanson is right, it is not sound public policy at best, but whether or not it is sound public policy should be a matter determined by the legislature. If I have one criticism of the magnificent monument that we are creating to Judge Niles and to the apostles of judicial reform, it is that they have on occasion here in their article laid it on a bit too thick; and I think this is one case where the lawyers are laying it on a bit too thick, and I urge the amendment, the vote be reconsidered.

THE CHAIRMAN: For what purpose does Delegate Jett rise?

DELEGATE JETT: To speak against the motion to reconsider.

THE CHAIRMAN: You may proceed.

DELEGATE JETT: I think, Mr. Chairman, and fellow delegates, that we are missing the point on this question. It is my very positive feeling, after considering this matter and reconsidering it, that this is not a special privilege for the bar. It is an obligation of the bar.

We have been here four and a half days, and the public would think that this is an article that is being written by lawyers, for lawyers, and the public is not concerned.

The public is interested in this thing, and I say to you, men and women of the bar, and fellow delegates here, that we have an obligation which we should not shirk when it comes to having a judge run on his record, having been appointed by a commission, with no one else having had the opportunity to see him as practicing judges and other members of the bar have. It is their duty to come forward and show their courage rather than mumbling in the corridor and to speak out against or for this man on the bench. I say to you that it is an obligation that the bar should not shirk. It should tell the people and it should be compelled to tell the people what manner of man has served them for eight years. For that reason, I am opposed to the amendment.

THE CHAIRMAN: Are you ready for the question?

*(Call for the question.)*

The question arises on the motion to reconsider the vote by which Amendment No. 43 to Committee Recommendation JB-1 was rejected. If the motion to reconsider is carried, Amendment No. 43 will be again before you. If the motion fails, we will proceed to a consideration of other sections.

A vote Aye is a vote in favor of the motion to reconsider. A vote No is a vote against the motion to reconsider. Will the Clerk please sound the quorum bell? Cast your vote.

Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 79 votes in the affirmative and 43 in the negative, the motion to reconsider carries. Amendment No. 43 is before you. Is there any discussion? Delegate Bamberger.

DELEGATE BAMBERGER: I only rose if it is necessary to move the adoption of Amendment No. 43.

THE CHAIRMAN: It is not necessary. The amendment is before you. Delegate Rybczynski.

DELEGATE RYBCZYNSKI: Mr. Chairman, I should like to ask Delegate Bamberger a question, and as a matter of fact, I will take an answer from anybody who wants to answer it.

I voted with Delegate Bamberger just now.

THE CHAIRMAN: Just a second; Delegate Bamberger, do you yield to a question?

DELEGATE BAMBERGER: Yes, I yield.

THE CHAIRMAN: Delegate Rybczynski.

DELEGATE RYBCZYNSKI: I voted Aye on Amendment No. 43, but now the hope of discussion has raised a new problem in my mind. The question here is, should a judge run against his record. Now you have eliminated live opposition, and we would presume that live opposition would bring forth a record.

Now, in this vote, which as I said before, I voted with you before, if we eliminate